



(Billing Code 5001-06)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[Docket DARS-2016-0020]

RIN 0750-AI96

Defense Federal Acquisition Regulation Supplement:

Administrative Cost to Issue and Administer a Contract (DFARS Case 2016-D020)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the estimated administrative cost to award and administer a contract, for the purpose of evaluating bids for multiple awards.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before **[Insert date 60 days after date of publication in the FEDERAL REGISTER]**, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2016-D020, using any of the following methods:

- o Regulations.gov: <http://www.regulations.gov>. Submit

comments via the Federal eRulemaking portal by entering "DFARS Case 2016-D020" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2016-D020." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2016-D020" on your attached document.

- o Email: osd.dfars@mail.mil. Include DFARS Case 2016-D020 in the subject line of the message.

- o Fax: 571-372-6094.

- o Mail: Defense Acquisition Regulations System, Attn: Mr. Christopher Stiller, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Stiller, telephone 571-372-6176.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement a policy that addresses the Government's cost to award and administer a contract, for the purpose of evaluating bids for multiple awards. The provision at DFARS 252.247-7008, Evaluation of Bids-Basic, and its Alternate I, reflects that \$500 is the administrative cost to the Government for issuing and administering contracts. Based on increase in the Consumer Price Index since 1990, an upward adjustment of \$500 in the provision to \$1,000 would be a realistic reflection of the actual cost to the Government to issue and administer a contract. This increase conforms to an equivalent adjustment proposed under FAR Case 2016-003 published in the Federal Register on May 12, 2016 (81 FR 29514).

II. Discussion and Analysis

Amendments to DFARS provision 252.247-7008, Evaluation of Bids-Basic, and its Alternate I, are proposed by this rule. A monetary adjustment is proposed to increase, from \$500 to \$1,000, the administrative cost to the Government for issuing and administering each contract to be awarded under a solicitation for the purpose of evaluating bids for multiple awards.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The clause at DFARS 252.247-7008, Evaluation of Bids, reflects that \$500 is the administrative cost to the Government for issuing and administering contracts. The rule is necessary to reestablish a more realistic estimate of the cost to award and administer a contract, for the purpose of evaluating bids for multiple awards. The estimated administrative cost to award and administer a contract has not changed since 1990.

The objective of this rule is to revise DFARS 252.247-7008, Evaluation of Bids, to include an inflation adjustment based on increase in the Consumer Price Index since 1990. See <http://data.bls.gov/cgi-bin/cpicalc.pldata>. The adjustment will change the estimated cost to award and administer a contract from \$500 to \$1,000.

According to the Federal Procurement Data System, in fiscal year 2015, the Federal Government made approximately 2,019 definitive contract awards to small businesses using sealed bidding procedures and 103 indefinite delivery contract awards to small businesses using sealed bidding procedures, 12 of which were multiple awards. Thus, DoD does not expect this rule to have an economic impact on a substantial number of small entities. Additionally, the rule does not place any new requirements on small entities.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no significant alternatives to the rule which accomplish the stated objectives.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in

accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2016-D020), in correspondence.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 252

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is proposed to be amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for part 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

252.247-7009 [Amended]

2. Amend section 252.247-7008 by—

a. Removing the provision date “(APR 2014)” and adding “(DATE)” in its place;

b. In paragraph (b) (1), removing "\$500" and adding "\$1,000" in its place; and

c. In Alternate I:

i. Removing the clause date "(APR 2014)" and adding "(DATE)" in its place; and

ii. In paragraph (b) (1), removing "\$500" and adding "\$1,000" in its place.

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